



# City of Santa Barbara California

## CITY OF SANTA BARBARA PLANNING COMMISSION

### RESOLUTION NO. 009-11

900 CALLE DE LOS AMIGOS

AMENDED CONDITIONAL USE PERMIT, MODIFICATIONS, & LOT LINE ADJUSTMENT

APRIL 14, 2011

**APPLICATION OF TYNAN GROUP AGENTS FOR AMERICAN BAPTIST HOMES OF THE WEST, 900 CALLE DE LOS AMIGOS, (APN/ZONE DISTRICTS: VALLE VERDE CAMPUS 049-040-054/E-3; 049-440-016/A-1 & A-1; 049-040-050/A-1&E-3; 049-040-053/E-3; RUTHERFORD PARCEL - 049-440-015/A-1), GENERAL PLAN DESIGNATION: RESIDENTIAL 5 UNITS/ACRE, 1 UNIT/ACRE (MST2005-00742)**

The proposed project would be for an amended Conditional Use Permit (CUP) for additions and remodeling to the facilities at the Valle Verde Retirement Community facility. The CUP would also expand to encompass an adjacent parcel, known as the Rutherford Parcel, which is currently owned by Valle Verde. The project would involve the demolition of 2 independent living residential units (defined as each unit containing a kitchen), and a single family residence, and the construction of 40 new independent living residential units for a net increase of 37 new independent living residential units. The existing 11 studio units (defined as one shared kitchen per four studios) would be reduced to 7 units through the demolition of 4 units.

Project components involving the support facilities for the residents would include a two-story addition to the Administration building, where a 4-room bed and breakfast and a small banking office would be located. The existing bed and breakfast, currently located in a former independent living unit would be demolished. The Assisted Living facility would include an addition for four new beds, and the Dining & Multi-Purpose Building would be remodeled along with minor additions totaling 1,300 square feet. The existing 4,348 square foot Maintenance Building would be demolished and a new 5,642 square foot maintenance facility would be constructed within the same location.

Several of the existing parking areas on the project site would be reconfigured for dedicated residential, visitor and employee parking, and would provide a total of 83 new parking spaces. A parking permit program would be implemented to track the residential and employee parking. After project implementation, a total of 414 parking spaces would be provided on the project site. A new driveway from the Rutherford Parcel would provide access to eight of the ten proposed residential units on that lot, with the remaining two units accessed from within the campus. The project would include the dedication of a 9.8-acre oak woodland area on the western portion of the project site. The project also includes a minor Lot Line Adjustment between two parcels owned by Valle Verde.

The discretionary applications required for this project are:

1. Modifications to allow less than the required front setback for proposed Unit 6 along Torino Drive and for proposed development along Valle Verde private roads (SBMC § 28.92.110.2);
2. Modifications to allow less than the required distance between buildings for some of the proposed development (SBMC § 28.92.110.2);
3. Modifications to allow less than the required interior yard setback for some of the proposed development (SBMC § 28.92.110.2);

4. A Conditional Use Permit Amendment to allow expansion of the Valle Verde retirement community (SBMC §28.94.030.R); and
5. A Lot Line Adjustment to allow an exchange of land between APNs 049-440-015 and -016, which would result in a decrease of APN 049-440-015 from 3.6 acres to 3.4 acres and a corresponding increase of APN 049-440-016 from 11.5 to 11.7 acres (SBMC §27.40).

**Environmental Review:** A Final Environmental Impact Report (FEIR) has been prepared along with responses to comments received during the comment period and, prior to an action on the project, the Planning Commission will consider certification of the EIR, and must make findings pursuant to the California Environmental Quality Act Guidelines Section 15091. A copy of the FEIR and response to comments can be found online at [http://www.santabarbaraca.gov/Resident/Environmental\\_Documents/](http://www.santabarbaraca.gov/Resident/Environmental_Documents/) listed under 900 Calle de los Amigos and is also available at the Planning Counter at 630 Garden Street.

**WHEREAS,** the Planning Commission has held the required public hearing on the above application, and the Applicant was present.

**WHEREAS,** 29 people appeared to speak in favor of the application, and 11 people appeared to speak in opposition thereto or with concerns, and the following exhibits were presented for the record:

1. Staff Report with Attachments, April 7, 2011. If item is continued list each Staff report separately with attachments.
2. Site Plans
3. A copy of Staff's Power Point presentation with a copy of Valle Verde Community events.
4. Correspondence received in support of the project:
  - a. M.L. Dugan (*writing illegible*), Santa Barbara, CA
  - b. Dan McKinnon, Santa Barbara, CA
  - c. Edwina Mindheim, Santa Barbara, CA
  - d. Marian D. Buegles, Santa Barbara, CA
  - e. Leonard A. Price, MD, Santa Barbara, CA
  - f. Henry Levy, Jr., Santa Barbara, CA
  - g. John & Sally Mandle, Santa Barbara, CA
  - h. Dr. and Mrs. Robert G. Logan, Santa Barbara, CA
  - i. Frank and Parmele Williams, Santa Barbara, CA
  - j. Bill and Kathlyn Paxton, Santa Barbara, CA
  - k. Art and Peggy Montgomery and Betsy Rose, via email
  - l. Janet L. O'Dowd, Santa Barbara, CA
  - m. Robert J. Buegler, Santa Barbara, CA
  - n. Roger David Cole, Santa Barbara, CA
  - o. Guenter and June Ahlers, via email

- p. Bob and Karin Hughes, Santa Barbara, CA
- q. Jane C. Rieffel, Santa Barbara, CA
- r. Virginia Robinson, Santa Barbara, CA
- s. Ellen Brown, Santa Barbara, CA
- t. Anna M. Freidell, Santa Barbara, CA
- u. William A. Kelsey, Santa Barbara, CA
- v. Jean Vroman, Santa Barbara, CA
- w. Joan and Thomas Mitchell, Santa Ynez, CA
- x. James and Phyllis Axtell, Santa Barbara, CA
- y. Marion Fortunato, Santa Barbara, CA
- z. Phyllis and Elliot Prager, Santa Barbara, CA
- aa. Dempsay, via email
- bb. Henry Jones, via email
- cc. Donald O'Dowd, via email
- dd. Bob Miller, President, Valle Verde Resident Council, via email
- ee. Julia Springer, Summerland, CA
- ff. Norman J. Boyan, via email
- gg. Janet W. Davis, Santa Barbara, CA
- hh. Dr. and Mrs. David Bohn, via email
- ii. Judy Richards, via email
- jj. Paul D. King, Santa Barbara, CA
- kk. Arthur C. Christman, Jr., Santa Barbara, CA
- ll. Lorilee Torrey and the Torrey Family, via email
- mm. Ruth Priest, Santa Barbara, CA
- nn. William Spangler, Santa Barbara, CA
- oo. Margaret E. Olds, via email
- pp. Patricia C. Dow, via email
- qq. Louise Carey, via email
- rr. Steve Amerikaner, Santa Barbara, CA
- ss. Laurie Yttri, via email
- tt. Alexa Steadman, via email

Correspondence received in opposition to, or with concerns about, the project:

- a. Jermaine Chastain, via email
- b. Heike Killian, via email
- c. Judy Orias, Santa Barbara, CA
- d. Janice Z. Baker, via email
- e. Beatrice T. Oshika, via email
- f. Robert Boghosian and Beth Gates Warren, via email
- g. Steve Seim, via email'
- h. Jim Venturino, via email
- i. Tom and Sherie Burgher, via email
- j. John Horton, via email
- k. William Sabella, President, De los Amigos Owners Association, via email
- l. Marc Chytilo, Attorney for Hidden Oaks Homeowner's Association, via email
- m. Sharon A. Seidenstein, Attorney for UHW/Friends of Valle Verde, via email
- n. Pete Georgi, President, Hidden Oaks Homeowner's Association, via email
- o. Stevie Peters, via email
- p. Tim Reinauer, via email
- q. Ruth Georgi, via email
- r. Wilmer Haas, via email
- s. Eddie Harris, President, Santa Barbara Urban Creeks Council, via email
- t. Catherine McCammon, President, Allied Neighborhoods Association, via email
- u. Frank Arredondo, Chumash MLD, via email
- v. John Caulfield, Santa Barbara, CA
- w. Sherry Hall, Friends of Valle Verde, Santa Barbara, CA
- x. "Save Hidden Valley" petition with 117 signatures of neighboring residents
- y. "Friends of Valle Verde Save the Oaks" petition with 159 signatures

**NOW, THEREFORE BE IT RESOLVED** that the City Planning Commission:

I. Approved the subject application making the following findings and determinations:

A. **Final Environmental Impact Report (EIR) Certification**

Consistent with the California Environmental Quality Act Section 15090, Certification of the Final EIR, prior to approving a project the lead agency shall certify that:

1. The Final Environmental Impact Report for the Valle Verde project was presented to the Planning Commission of the City of Santa Barbara. The Planning Commission reviewed

and considered the information contained in the Final Environmental Impact Report, along with public comment and responses to comments, and determined that the document constitutes a complete, accurate, and good faith effort toward full disclosure of the project's impacts and is an adequate environmental analysis of the project.

2. The Final Environmental Impact Report, dated February 2011, prepared for the Valle Verde project has been completed in compliance with CEQA.
3. The Final Environmental Impact Report for the Valle Verde Project reflects City of Santa Barbara Planning Commission's independent judgment and analysis.
4. The location and custodian of documents and materials that constitute the record of proceedings upon which this decision is based, is the City of Santa Barbara Community Development Department, Planning Division, 630 Garden Street, Santa Barbara, CA, which is also the Lead Agency.
5. A mitigation monitoring and reporting program (MMRP) is hereby adopted. Mitigation measures have been made enforceable through incorporation into the project description or are included as conditions of project approval.

**Class II Impacts (Potentially Significant and Mitigated).** Project elements incorporated as part of the project description and mitigation measures applied as conditions of project approval would result in the avoidance or substantial lessening of the following environmental impacts to less than significant levels. These findings are supported by substantial evidence in the record including the Final EIR.

- a. **Visual Aesthetics.** Removal of existing mature trees and additional development would affect the site's visual appearance. This impact would be reduced to a less than significant level by replacing each mature tree removed with an appropriate replacement tree, as determined by the City's Architectural Board of Review.
- b. **Biological.** Short-term impacts to wildlife could occur as a result of the project construction. Mitigations include survey for nests prior to construction, construction fencing, and designated equipment parking, which would reduce impacts to a less than significant level. Long-term impacts to the Oak Woodland habitat from the new development and associated fuel management requirements could also occur. The project includes a revised fuel management program, an oak woodland restoration plan and standard conditions for lighting that manage lighting and direct it toward the ground, which would reduce impacts to a less than significant level.
- c. **Geophysical Conditions.** Components of the project are proposed to be located on steeper slopes and could be impacted by slope stability. This impact would be reduced to a less than significant level with the implementation of the recommendations in the Soils Engineering Report for grading the site, directing drainage, as well as compliance with building code requirements that would minimize potential hazards associated with slope stability.
- d. **Hazards.** The project is not located within a high fire hazard area. However, there is heavy vegetation and non-native grasses within close proximity of the proposed development. Implementation of the revised fuel management program would

reduce impacts to less than significant levels by reducing the fuel load and using a fire resistant construction techniques.

- e. **Noise.** Construction noise has the potential to impact adjacent residents. Mitigation measures to address construction hours, construction equipment sound, and noise barriers have been included and would reduce impacts to a less than significant level.
- f. **Public Services.** Construction and demolition activities required to implement the proposed project would generate a substantial amount of solid waste. This impact would be reduced to a less than significant level with the implementation of a waste management plan that would recycle the majority of the waste.

**Class III Impacts (Less than Significant).** The proposed project would result in a less than significant impact in the following environmental issue areas, as identified in the Final EIR. As applicable, Mitigation measures are incorporated as conditions of project approval to further reduce the level of impact, consistent with City policies. These findings are supported by substantial evidence in the record including the Final EIR.

- a. **Air Quality.** Long-term impacts were considered less than significant. Short-term project-related grading and construction activities would result in fugitive dust and emissions from construction equipment that would be well below the established threshold of significance. Standard dust and emissions control measures to further reduce potential impacts are included as recommended mitigation measures and in the Conditions of Approval. Therefore, the project is anticipated to have a less than significant short-term air quality impact.
- b. **Cultural Resources.** The project involves ground-disturbing activities, which means there is a remote possibility of encountering unknown buried archeological deposits. The project site was surveyed to detect the presence of prehistoric and historic cultural materials. The survey did not detect the presence of any resources. Standard mitigation requiring contractor notification if resources are excavated would further reduce potential impacts.
- c. **Population and Housing.** The proposed project would provide 40 new dwelling units, resulting in a net gain of 33 dwelling units in the City and would have no significant housing- or population-related impacts.
- d. **Recreation.** The Valle Verde campus includes various on-site passive and active recreation opportunities for residents. Increases in park and recreation demand associated with the proposed project would be less than significant.
- e. **Transportation/Circulation.** Short-term construction related impacts could occur during construction. Recommended mitigations and standard conditions of approval for construction traffic and construction parking would further reduce impacts. The project would result in approximately five new employees and new senior housing. No long-term significant traffic impacts would result from the project. A recommended mitigation to prevent parking within five feet of all driveways would further reduce impacts.

- f. **Water Environment.** Through the recommended mitigations, which would be incorporated into the conditions of approval, less than significant short-term construction-related water quality impact would be further reduced to a less than significant level. All new development would be required to comply with the provisions of the Storm Water Management Program, which mandate that post construction runoff is equal to pre-construction runoff and runoff is treated prior to leaving the site, thus long term impacts would be less than significant.

#### **Findings for the Fish & Game Code**

An Environmental Impact Report has been prepared by the lead agency (City of Santa Barbara), which has evaluated the potential for the proposed project to result in adverse effects, either individually or cumulatively, on wildlife resources. For this purpose, wildlife is defined as "all wild animals, bird, plants, fish, amphibians, and related ecological communities, including the habitat upon which the wildlife depends for its continued viability." The proposed project has the potential for adverse effects on trees and mature vegetation and associated wildlife during project construction. Mitigation measures have been applied such that any less than significant impacts would be further reduced. The project does not qualify for a waiver and is subject to payment of the California Department of Fish and Game fee.

This motion to certify the Environmental Impact Report was passed and adopted on the 14th day of April, 2011 by the Planning Commission of the City of Santa Barbara, by the following vote:

AYES: 4 NOES: 1 (Jostes) ABSTAIN: 0 ABSENT: 2 (Jacobs, Larson)

#### **B. Modification Front Setback (SBMC §28.92.110.2)**

The proposed Modification along Torino Drive to reduce the front setback from 35 feet to 20 feet is consistent with the purpose and intent of the Zoning Ordinance and is necessary to promote uniformity of improvement. The reduction of the setback would not be out of character with the existing Valle Verde development or the adjacent Hidden Oaks development, because the unit that would be located in the front setback would be single story, similar to the existing Valle Verde development on Torino Drive.

The proposed Modification from the private streets with Valle Verde can also be found consistent the purpose and intent of the Zoning Ordinance. The proposed development along the private streets would follow a similar development pattern established over the four phases of the site development.

#### **C. Modification Distance Between Buildings (SBMC §28.92.110.2)**

The Modification to reduce the distance between buildings requirements is consistent with the purpose and intent of the Zoning Ordinance and is necessary to promote uniformity of improvement. The existing development of the site includes reduced distances between buildings. The typical existing development is comprised of single story duplexes and triplexes, which does not create a crowded feel. The proposed Modifications between the buildings would be similar in nature. Typically, some of the buildings are at an angle to other buildings and only part of the building is closer than required to the other buildings.

**D. Modification Interior Yard Setback (SBMC §28.92.110.2)**

The Modification to reduce the interior setback is consistent with the purpose and intent of the Zoning Ordinance and is necessary to promote uniformity of improvement. Two units on the Rutherford parcel would encroach within one to two feet of the interior setback and place the development closer to the existing Valle Verde development. A third unit, located on the hillside above Sende Verde, would be placed three feet into the required setback. This location is appropriate since the unit would be located further from the Oak Woodland habitat and only affects Valle Verde interior lots.

**E. Lot Line Adjustment Modification (SBMC §27.40.040)**

The parcels resulting from the lot line adjustment conform to the General Plan, and zoning ordinance and building code, and specifically satisfy all lot area, street frontage and setback requirements as described in Section VI of the staff report.

**F. Conditional Use Permit**

In keeping therewith, the Planning Commission may permit, by issuance of a conditional use permit, any of the uses specifically enumerated in Section 28.94.030 upon a finding that:

1. Any such use is deemed essential or desirable to the public convenience or welfare and is in harmony with the various elements or objectives of the Comprehensive General Plan; *The improvements and updated conditions of approval for the amended CUP will clarify the uses of the campus and improve the parking on site, thereby reducing parking on the public street. The project is consistent with the General Plan Elements, because it will not cause a significant traffic impact, the buildings will be a similar design to the existing development, and will provide an updated facility consistent with both local building code and state code for licensed retirement facilities.*
2. Such uses will not be materially detrimental to the public peace, health, safety, comfort and general welfare and will not materially affect property values in the particular neighborhood involved; *The project site is located in an area that is somewhat buffered from the majority of the neighboring properties. Hope Ranch is adjacent to the site on two sides, Hidden Valley Park is on the eastern side and a dedicated open space is on the southern side. Hidden Oaks subdivision, a Planned Urban Development (PUD) is located immediately west of the Rutherford Lot, where ten of the proposed units will be located. Of the ten units, eight would have direct access onto Torino Drive. This public street was constructed in the mid-1980's and has a low traffic volume, since it only serves Hidden Oaks. The proposed units would be set further back from the common lot line than required by Ordinance and the clustering would be similar to the Hidden Oaks development.*
3. The total area of the site and the setbacks of all facilities from property and street lines are of sufficient magnitude in view of the character of the land and of the proposed development that significant detrimental impact on surrounding properties is avoided. *The development of the Rutherford Lot includes one unit encroaching closer to the front setback line through a Modification request. However, the location of this development would be consistent with the front setbacks of the existing Valle Verde development of the project site and would not be adjacent to existing off-site neighborhood development.*



4. Adequate access and off-street parking including parking for guests is provided in a manner and amount so that the demands of the development for such facilities are adequately met without altering the character of the public streets in the area at any time. *The applicant is providing additional parking for the proposed development. The project includes a reconfiguration of the existing parking lots and designating specific parking lots for employees, residents, and visitors. A parking program is proposed to be implemented to track the number of residents and staff to ensure that vehicles are parked on site and not on the surrounding streets.*
5. The appearance of the developed site in terms of the arrangement, height, scale and architectural style of the buildings, location of parking areas, landscaping and other features is compatible with the character of the area. The Planning Commission shall have the authority to approve the design of open space. Design shall mean size, shape, location and usability for proposed private, public, or quasi-public purposes and development. Approval of such open spaces may be expressly conditioned upon an offer of conveyance by the owner to the City of Santa Barbara of the development rights, the right to prohibit the construction of additional buildings, or other property rights, necessary to achieve the purpose set forth in this title. *The proposed development is all single story, similar to the existing development, except for the addition to the administration building. The additions to the administration building would include a second story element for the four bed and breakfast units; however this second floor element would be in the center of the campus away from the public roads or off-site development. Open space is being dedicated as part of the project and along with a previously required, but unrecorded dedicated open space, a total of 9.8 acres of oak woodland would be provided. Finally, the project was reviewed on several occasions by the Architectural Board of Review and the Board found the project was moving in the right direction.*

Compliance with any additional specific requirements for a conditional use permit:

Section 28.94.030.R.2 states that for existing State-licensed residential care facilities for the elderly, community care facility or hospice as of the effective date of this Ordinance requesting an alteration or modification, in addition to the findings required under Section 28.94.020 (stated above), the Planning Commission or City Council on appeal must find upon a showing of adequate information that:

6. The proposal has been reviewed and approved by the City Fire Marshall and the City Building Official. *The proposed project was reviewed as part of the application process. The project will be required to apply for a building permit and representatives of the Fire Department and the Building Department will review the project for consistency with the applicable codes. The review will encompass all aspects of the project, including emergency access, ingress and egress of the parking areas and location of parking spaces.*
7. The facility will generate a demand for resources such as water, traffic and parking capacity, and other public services equivalent to no more than that which would be demanded by development of the property in accordance with the underlying zone, or if existing resource use exceeds the underlying zone, then resource use shall be equivalent to no more than that of the existing use. *The project would be consistent with both*

*scenarios of this finding. Water usage for the proposed residential uses on the site would be less than what would be necessary to supply two single-family residences, each located on one and one half acres. Because the use of the site is senior housing, peak hour traffic trips would be less than a typical residential development and all parking can be accommodated on site in the attached garages and surface parking lot.*

8. The intensity of use in terms of the number of people, hours of operation, hours of major activities and other operational aspects of the proposed facility is compatible with any neighboring residential use. *The portion of the proposed development located closest to the adjacent residential use will be similar in use and intensity because it will be residential use. There will be a greater separation between the residential units and the adjacent properties than required by Ordinance. All of the core support buildings (i.e. dining areas, wellness clinics, recreational facilities, etc.) will remain in the current location and would not expand any further toward the adjacent residential properties.*

II. Said approval is subject to the following conditions:

A. **Order of Development.** In order to accomplish the proposed development, the following steps shall occur in the order identified:

1. Pay Fish and Game fee immediately upon approval of the land use applications. Delays in payment will result in delays in filing the required Notice of Determination.
2. Obtain all required design review approvals.
3. Pay Land Development Team Recovery Fee at the time of submittal for either a Building or Public Works permits.
4. Make application and obtain a Building Permit (BLD) to demolish any structures / improvements and/or perform rough grading. Comply with condition E "Construction Implementation Requirements."
5. Record any required documents (see Recorded Conditions Agreement section), including an approvable application for a Lot Line Adjustment, including, but not limited to the Oak Grove development rights restriction.
6. Permits.
  - a. Make application and obtain a Building Permit (BLD) for construction of approved development.
  - b. Make application and obtain a Public Works Permit (PBW) for all required public improvements.

Details on implementation of these steps are provided throughout the conditions of approval.

B. **Recorded Conditions Agreement.** The Owner shall execute a *written instrument*, which shall be prepared by Planning staff, reviewed as to form and content by the City Attorney, Community Development Director and Public Works Director, recorded in the Office of the County Recorder, and shall include the following:

1. **Approved Development.** The development approved by the Planning Commission on April 14, 2011, as shown on the plans signed by the chairman of the Planning

Commission on said date and on file at the City of Santa Barbara, is limited to the following:

An amendment to the Conditional Use Permit for the Valle Verde project to allow the following land uses:

- a. 246 Independent Living Units (separate living units with individual kitchens and no more than two bedrooms).
- b. 7 Studio Units (multiple attached living units of no more than one bedroom each sharing a common kitchen)
- c. A 2-story, 6,870 S.F. Administration Building which includes within the footprint:
  - (1) 1<sup>st</sup> story - Administrative offices, conference room and a resident bank office. (5,045 S.F.)
  - (2) 2<sup>nd</sup> story - 4 Bed and Breakfast units each with full bath & wet bar (1,825 S.F.)
- d. A 4,923 s.f. Poolside Lounge, which includes a library, a lounge, resident resale room (La Tienda room) with annex, a storage area, a laundry area and bathrooms with shower facilities.
- e. A 13,764 s.f. Dining complex, which includes a 351 seat multi-purpose/theater/aerobic room, a lobby area, a 12 seat chapel, a kitchen, bathrooms, a dining hall that includes a 32 seat formal dining alcove, a 679 s.f. outdoor patio dining area, a 110 seat main dining area, and a wellness center.
- f. A 2,658 s.f. Beauty Salon building, which also includes a staff room lounge, an outdoor staff area (with designated smoking area), a conference room (Santa Barbara Room), and a store for the residents (Country Store).
- g. A 2,646 s.f. social room, which includes a card/conference room, a business office with help desk, 8 seat deli & lounge area, and bathrooms.
- h. A 28,558 s.f. 80 bed Skilled Nursing building.
- i. A 33,401 s.f. 48 bed Assisted Living building, which also includes a 44 seat dining area with kitchen, a lounge, an art room, a fitness room and staff office area.
- j. A 2-story 5,899 s.f. Maintenance Building:
  - (1) 1st Story – Hobby shop, maintenance shop, landscape storage, and remodel storage. (4,099 s.f.)
  - (2) 2nd Story – Maintenance staff offices, meeting room and file storage. (1,800 s.f.)
- k. A 252 s.f. Laundry room with a storage room and bathroom.
- l. A 8,079 s.f. open air plaza including café seating & bbq trellis

- m. Five gazebos totaling 3,175 s.f. with a restroom, storage & janitor/laundry area. Four gazebos have indoor seating with exterior open air seating.
- n. A 588 s.f. storage area
- o. 414 Parking spaces.
- p. Dedication of 9.8 acres of Oak Woodland habitat to remain undeveloped.
- q. New access driveway onto Torino Road.
- r. A Lot Line Adjustment which would result in APN 049-440-015 being 3.4 acres and APN 049-440-016 being 11.7 acres.

**Note:** The square footage of items e. (Dining Complex), h. (Skilled Nursing) & i. (Assisted Living) are accurate within a factor of 10% + or -. In the event more substantial renovations occur in any of these buildings in the future, a more thorough evaluation of the building square footage shall be provided. This approved development includes the total of all the development requested under the Conditional Use Amendment, along with all of the existing Valle Verde development.

The uses allowed in this amendment to the conditional use permit are expressed as maximum limits. The amended conditional use permit supersedes all prior conditional use permits for the Valle Verde project.

2. **Development Rights Restrictions - Oak Woodland.** The Owner shall not make any use of the restricted portion of the Real Property as designated on the approved plans in order that those portions of the Real Property remain in their natural state. This area shall encompass one area of the oak woodland habitat totaling 9.8-acres. The Owner shall not make use of the restricted area including, but not limited to, grading, irrigation, structures, ornamental landscaping, or utility service lines. The restricted areas shall be shown on the site plan. The only exception to activity in this restricted area is fuel management as prescribed under the approved fire clearance plan and restoration of the area as described in a habitat restoration plan. The Owner shall continue to be responsible for maintenance of the restricted area, and compliance with orders of the Fire Department. Any brush clearance shall be performed without the use of earth moving equipment.
3. **Uninterrupted Water Flow.** The Owner shall provide for the continuation of any historic uninterrupted flow of water onto the Real Property including, but not limited to, swales, natural watercourses, conduits and any access road, as appropriate.
4. **Recreational Vehicle Storage Prohibition.** No recreational vehicles, boats, or trailers shall be stored on the Real Property.
5. **Landscape Plan Compliance.** The Owner shall comply with the Landscape Plan approved by the Architectural Board of Review (ABR). Such plan shall not be modified unless prior written approval is obtained from the ABR. The landscaping on the Real Property shall be provided and maintained in accordance with said landscape plan, including any tree protection measures. If said landscaping is removed for any reason without approval by the ABR, the owner is responsible for its immediate replacement.

6. **Oak Tree Protection.** The existing Oak trees shown on the Tree Protection Plan & Landscape Plan shall be preserved, protected, and maintained in accordance with the recommendations contained in the Valle Verde Retirement Community Tree Assessment and Protection Plan (Spiewak, 2008). See Condition D.2.d. for further detail on tree protect and also the copy of the Spiewak report, which shall be attached to the recorded conditions as an exhibit.
7. **Storm Water Pollution Control and Drainage Systems Maintenance.** Owner shall maintain the drainage system and storm water pollution control devices in a functioning state. Should any of the project's surface or subsurface drainage structures or storm water pollution control methods fail to capture, infiltrate, and/or treat water, or result in increased erosion, the Owner shall be responsible for any necessary repairs to the system and restoration of the eroded area. Should repairs or restoration become necessary, prior to the commencement of such repair or restoration work, the Owner shall submit a repair and restoration plan to the Community Development Director to determine if an amendment or a new Building Permit is required to authorize such work. The Owner is responsible for the adequacy of any project-related drainage facilities and for the continued maintenance thereof in a manner that will preclude any hazard to life, health, or damage to the Real Property or any adjoining property.
8. **Senior Housing Restrictions.** The Real Property may only be used for residential uses by elderly or senior persons who are sixty-two (62) years of age or older (herein sometimes referred to as "senior housing").
9. **Required Redesign if Senior Housing Not Used.** In the event that the Real Property, or any portion thereof, is not or cannot be used solely for senior housing, the structures shall be redesigned and possibly reconstructed and the number of dwelling units shall be reduced so that the maximum number of dwelling units on the Real Property does not exceed the number of dwelling units that would be allowed if there is compliance with the City's parking requirements then in effect and in compliance with the underlying residential zone district.
10. **Pesticide or Fertilizer Usage Near Creeks.** The use of pesticides or fertilizer shall be prohibited within the south-eastern area, which drains directly into Arroyo Burro Creek.
11. **On Site Employee Amenities** – On site employee amenities shall be maintained for the life of the project which include break room areas, outdoor seating areas and smoking areas.
12. **On Site Residential & Employee Permit Parking Program.** Valle Verde shall create a residential and employee permit program with the purpose that all residents and employees shall park on site. Valle Verde shall maintain the program with the name of the resident or employee, the make and model of the car, and license number. Records shall be maintained by Valle Verde staff and be provided to City staff as needed to ensure compliance with this condition. The program shall include the following components:
  - a. All residents of the independent living units and studios shall participate in the Permit Parking Program. Each independent residential living unit and studio unit shall be issued one (1) parking sticker.

- b. In the event a resident moves out of an independent living unit or a studio, the automobile shall be removed off site to a designated storage area or other appropriate location that is not in the public right-of-way and the permit forfeited.
    - c. Designated residential parking spaces shall be clearly marked on wheel stops or other such signage.
    - d. All employees shall be issued one (1) parking sticker. All employees shall park on-site, and Valle Verde staff in charge of maintaining the parking program shall ensure that employees are using the on site parking spaces.
    - e. Designated employee parking lots shall be provided as shown on the approved site plan and each employee parking lot shall include appropriate signage, approved by City Public Works Transportation staff.
  - 13. **Common Area Maintenance.** All common/shared areas/facilities/improvements shall be kept open, available and maintained in the manner in which it was designed and permitted.
  - 14. **Areas Available for Parking.** All parking areas and access thereto shall be kept open and available in the manner in which it was designed and permitted. No storage of equipment, such as storage containers or construction material, shall occur, unless allowed during construction or remodeling of buildings. Visitors to Valle Verde shall be encouraged to park on site prior to parking in the public right-of-way. As part of scheduling facilities for use by outside groups, Valle Verde shall encourage carpooling or other alternative transportation. 414 Parking spaces shall be divided among the residents, visitors and employees in the following manner:
    - a. Residents – 251 spaces (note: includes a combination of single car attached garages and surface parking lots)
    - b. Employees – 114 spaces
    - c. Visitors – 49 spacesOn-site parking signage, directing residents, visitors and staff to park on-site, rather than on Calle de los Amigos shall be provided.
- C. **Design Review.** The project, including public improvements, is subject to the review and approval of the Architectural Board of Review (ABR). The ABR shall not grant project design approval until the following Planning Commission land use conditions have been satisfied.
- 1. **Landscape Plans:**
    - a. The project shall adhere to the Fire Department Landscape Guidelines and Fuel Management Standards identified for properties within the project area. The Landscape plan shall be reviewed and approved by the Fire Department prior to submittal to the Environmental Analyst or ABR for review. (HAZ 1.)

- b. Prior to issuance of grading or building permits, final landscaping plans for the development shall be submitted for review and approval of the Environmental Analyst, Creeks Division and Architectural Board of Review (ABR), and shall include the following: (AES 1)
  - (1) Planting of only native species in development areas adjacent to native riparian, oak woodland, and coastal sage scrub areas. Drought tolerant, water wise landscaping should be used throughout the site. No highly invasive non-native species listed by the California Native Plant Society are to be used onsite.
  - (2) Replacement of all skyline and specimen trees proposed for removal or significantly impacted onsite at a minimum of a 1:1 ratio, preferably with native species. Should any of the large sycamore trees onsite be impacted by the project, they should be replaced at a 3:1 ratio per the specifications of the Tree Assessment and Protection Plan.
- 2. **Habitat Restoration Plan.** Prior to issuance of grading or building permits, an oak woodland and coastal sage scrub restoration plan prepared by a qualified biologist shall be submitted for review and approval by the City's Environmental Analyst. At minimum, the restoration plan shall contain the following elements:(BIO-1a.)
  - a. The plan shall include all recommendations related to restoration and tree replacement contained in the Biological Assessment and Tree Assessment and Protection Plan prepared for the project.
  - b. Removed/disturbed oak woodland and coastal sage scrub habitat shall be provided/restored at a minimum 2:1 replacement ratio. To the extent possible, this mitigation shall be performed on the project site in existing non-native and/or disturbed habitat such as areas where fuel management activities have occurred but will no longer be required, and nonnative annual grassland habitat. The habitat restoration plan shall at a minimum create 0.48 of an acre of oak woodland and 0.24 of an acre of coastal sage scrub habitat. The oak woodland and coastal sage scrub habitat restoration/mitigation may be implemented in conjunction with proposed oak tree replacement mitigation (BIO-2a).
  - c. At minimum, the oak woodland and coastal sage scrub habitat restoration/mitigation plan shall describe the following plan elements:
    - (1) Restoration site selection criteria.
    - (2) Where restoration/mitigation will occur.
    - (3) The existing conditions in the restoration/mitigation area(s).
    - (4) Site preparation and planting methods.
    - (5) A planting pallet using locally obtained native coast live oak trees and coastal sage scrub plant materials.
    - (6) A maintenance schedule.
    - (7) Mitigation goals, objectives, and success criteria.

- (8) A description of the monitoring methods and reporting that will be used to document and measure the progress of the restoration/mitigation effort.
- d. The coastal sage scrub habitat restoration/mitigation performance standard shall be a minimum of 80 percent native herb and shrub cover. The oak woodland habitat restoration/mitigation performance standard shall be a minimum of 45 percent canopy cover for native trees. Both the coastal sage scrub and oak woodland areas shall have no more than 15 percent non-native weeds (excluding non-native annual grasses) and the required performance standards shall be achieved within five (5) years after initial planting.
- e. Monitoring of the restoration areas shall occur for a minimum of five (5) years. Monitoring reports shall be submitted annually and at the completion of the five year period. If the final report indicates that the restoration project has in part or in whole been unsuccessful based on the performance standards specified in the restoration plan, the applicant shall submit within 90 days a revised or supplemental restoration program.
- f. All plantings shall be maintained for the life of the project.
- g. All cleared, graded, or disturbed areas on the project site shall be planted or protected and maintained for erosion control purposes as soon as feasible following initial disturbance.
- h. All disturbed soil around the margins of the development proposed on the western side of the campus adjacent to the existing oak woodland shall be hydroseeded with a native coastal sage scrub seed mix using native species found in adjacent habitats. Seed shall be collected from locally-occurring plants (either on-site or within the south coast of Santa Barbara County).
- i. Areas adjacent to the oak woodland on the western side of the property that are currently subject to fuel modification but would no longer require management after the approval of the proposed project (approximately 1.5 acres), shall be cleared of existing invasive, nonnative species (oleander, ice plant, ivy, etc.) and replanted with native, locally-occurring ground cover, brush and trees found in the oak woodland and coastal sage scrub habitats.
- j. Planting shall be undertaken immediately after completion of construction.
- k. Cages around the saplings shall be installed during planting to prevent wildlife from damaging the young trees. Weeds shall be controlled and a 2-3 inch layer of mulch shall be placed around the trees, but not against the stems. Newly planted saplings shall be irrigated with drip or other water source for the first two years, until the saplings are established.
- l. All trees removed during construction shall have their trunks and large limbs cut into three to four-feet long sections and scattered around adjacent natural habitat to function as microhabitat for small animals.



- m. To restore oak woodland habitat functions as quickly as possible, it is recommended that at least 80 percent of the of removed native trees replacement (80 percent of 150 removed oak replacement trees = 120 trees) be performed using 15-gallon or 24-inch box trees at a 3:1 mitigation ratio (12 removed trees would require 36 15-gallon and/or 24-inch box trees); and that 20 percent of the removed native trees replacement be performed replaced using one to five gallon trees planted at a 10:1 mitigation ratio (3 impacted trees would require 30 on- to five-gallon replacement trees).(20 percent of 150 replacement trees = 30 trees).
3. **Arborist's Report / Tree Protection Plan.** Include a note on the plans that the recommendations/conditions contained in the arborist's report, Valle Verde Retirement Community Tree Assessment and Protection Plan (Spiewak, 2008), shall be implemented. See Condition D.2.d. for further detail.
4. **Landscape Screening.** Landscaping with low water use plants and/or a solid screen wall or fence shall be provided to buffer the visitor parking area on the Rutherford Lot from Torino Road and adjacent properties to the south.
5. **Final Hydrology Report.** All recommended measures in a final Hydrology Report prepared by MAC Design Associates shall be submitted. The preliminary report on file is dated November 20, 2008. The final report shall be followed and recommendations shall be shown on final project plans. (W-1)
6. **Project Directory.** Project directories (including map and parking directional signs) listing all units on-site shall be indicated on the project plans. The directories shall clearly depict the location of visitor and staff parking and encourage visitors to park on site. The directories shall be lit sufficiently for readability for site visitors and placed in a location or locations acceptable to the Fire Department, shall meet current accessibility requirements, and is subject to Design Review Approval. Project Directories shall be placed at all entrances to the campus, which include the intersections of Calle Sende and Calle de los Amigos, Torino Drive and Calle Verde; Torino Drive and Calle Sastre; Torino Drive and Mesa Verde.
7. **Trash Enclosure Provision.** A trash enclosure with adequate area for recycling containers (an area that allows for a minimum of 50 percent of the total capacity for recycling containers) shall be provided on the Real Property and screened from view from surrounding properties and the street.

Dumpsters and containers with a capacity of 1.5 cubic yards or more shall not be placed within five (5) feet of combustible walls, openings, or roofs, unless protected with fire sprinklers.
8. **Retaining Wall Heights.** The applicant shall explore further reduction of the retaining wall heights adjacent to units 12 and 13, and the southerly portion adjacent to the maintenance building in the employee parking lot.

D. **Requirements Prior to Permit Issuance.** The Owner shall submit the following, or evidence of completion of the following, for review and approval by the Department listed below prior to the issuance of any permit for the project. Some of these conditions may be waived for demolition or rough grading permits, at the discretion of the department listed. Please note that these conditions are in addition to the standard submittal requirements for each department.

1. Public Works Department.

- a. **Approved Public Improvement Plans.** Public Improvement Plans as identified in condition D.1.h - k for both Private and Public street Improvements shall be submitted to the Public Works Department for review and approval. Upon acceptance of completed public improvement plans, a Building permit may be issued if the Owner has bonded for public improvements and executed the Agreement to Construct and Install Improvements (Not a Subdivision).
- b. **Dedication.** Easements, as shown on the approved site plan and described as follows, subject to approval of the easement scope and location by the Public Works Department and/or the Building and Safety Division:
  - (1) Owner shall offer to the City of Santa Barbara a minimum 20-foot wide easement for the purposes of construction, maintenance, ingress & egress for City of Santa Barbara public sanitary sewer in and City of Santa Barbara public water main purposes as shown on the approved site plan / utility plan.
  - (2) Owner shall offer an Easement in Gross to the City of Santa Barbara for the purposes of water meter reading and maintenance of water meters.
- c. **Water Rights Assignment Agreement.** The Owner shall assign to the City of Santa Barbara the exclusive right to extract ground water from under the Real Property in an *Agreement Assigning Water Extraction Rights*. Engineering Division Staff prepares said agreement for the Owner's signature.
- d. **Drainage and Water Quality.** In addition to complying with Condition C.5, the project plans for grading, drainage, stormwater facilities, and project development shall be subject to review and approval by City Building Division and Public Works Department per City regulations, (and Regional Water Quality Control Board). Sufficient engineered design and adequate mitigation measures shall be employed to ensure that no significant construction-related or long-term effects from increased runoff, erosion and sedimentation, urban water quality pollutants, or groundwater pollutants would result from the project. (W-2). See the Final Hydrology Report for details.
- e. **Erosion Control/Water Quality Protection Plan.** Prior to the issuance of a demolition permit for the proposed project, the applicant or project developer shall prepare an erosion control plan that is consistent with the requirements outlined in the Procedures for the Control of Runoff into Storm Drains and Watercourses and the Building and Safety Division Erosion/Sedimentation Control Policy (2003). The erosion control/water quality protection plan shall specify how the required water quality protection procedures are to be designed,

implemented and maintained over the duration of the development project. A copy of the plan shall be submitted to the Community Development and Public Works Departments for review and approval, and a copy of the approved plan shall be kept at the project site. (W-3)

At minimum, the erosion control/water quality protection plan prepared for the proposed project shall address the implementation, installation and/or maintenance of each of the following water resource protection strategies:

- Paving and Grinding
- Sandbag Barriers
- Spill Prevention/Control
- Solid Waste Management
- Storm Drain Inlet Protection
- Stabilize Site Entrances and Exits
- Illicit Connections and Illegal Discharges
- Water Conservation
- Stockpile Management
- Liquid Wastes
- Street Sweeping and Vacuuming
- Concrete Waste Management
- Sanitary/Septic Waste Management
- Vehicle and Equipment Maintenance
- Vehicle and Equipment Cleaning
- Vehicle and Equipment Fueling

- f. **Minimization of Storm Water Pollutants of Concern.** The applicant shall submit project plans incorporating long-term BMPs to minimize storm water pollutants of concern to the extent feasible, and obtain approval from Public Works Engineering. The approved facilities shall be maintained in working order for the life of the project and should incorporate passive design (bioswales, buffers, etc) to the extent feasible. (W-4)
- g. **Storm Drain System Stenciling and Signage.** Within the project area, the applicant shall implement stenciling of all storm drain inlets and catch basins, and posting of signs at all public access points along channels and creeks, with language in English and Spanish and graphic icons prohibiting dumping, per approved plans. The applicant shall submit project plans to the satisfaction of Public Works Engineering that identify storm drain inlet locations throughout the project area, and specified wording and design treatment for stenciling of storm

drain inlets and signage for public access points that prohibit dumping. The owners association shall maintain ongoing legibility of the stenciling and signage for the life of the project, and shall inspect at least annually and submit report to City annually. (W-5)

- h. **New public sewer and public water mains.** The Owner shall submit separate C-1 public improvement plans prepared by a civil engineer licensed in the state of California for the construction of the proposed public sewer main and the proposed public water main, in accordance with current engineering design standards and as outlined in the DRAFT Engineering Design Guidelines. Any extensions to the private water and sewer system also require separate C-1 improvement plans submitted to the Public Works Department. C-1 plans require a separate Public Works permit.

In addition, the Owner shall apply at the Public Works counter to abandon the existing 6-inch water main that traverses the subject property between the southeasterly ends of Calle De Los Amigos (private portion of road) and Senda Verde (private road), or submit separate C-1 public improvement plans to loop the system.

- i. **Calle de los Amigos (public) Road Improvements.** The Owner shall submit building plans for construction of improvements along the property frontage on Calle de los Amigos (public portion). As determined by the Public Works Department, the improvements shall include the following to City standards: Construct ~~one~~ three (N) commercial style driveways; a minimum of three (N) Type B curb drain outlets, saw-cut +/- 70 LF curb & gutter, construct +/- 70 LF (N) curb and gutter, & construct (N) sidewalk on-site. *Connection to the City's Recycled Water System is required per SBMC 14.23 for irrigation meters.* Plans shall be prepared by a civil engineer licensed in the state of California. Any work in the public rights-of-way requires a Public Works permit.
- j. **Calle de los Amigos (private) Road Improvements.** The Owner shall submit building plans for construction of improvements along the property frontage on Calle de los Amigos (private portion). As determined by the Public Works Department, the improvements shall include the following to City standards: Construct ~~one~~ three (N) commercial style driveways; construct a minimum of three (N) Type B Curb drain outlets; saw-cut +/- 180 LF (E) curb and gutter, construct +/- 180 LF curb only, and construct +/- 100 LF ribbon gutter infiltration trenches. All improvements in the Right of Way requires a Public Works permit.
- k. **Torino Drive (public) Road Improvements.** The Owner shall submit building plans for construction of improvements along the property frontage on Torino Drive. As determined by the Public Works Department, the improvements shall include the following to City standards: Supply and install ~~one~~ two (N) stop signs and paint Stop legends on street per the 2006 MUTCD, saw-cut +/- 20 LF (E) curb & construct one (N) commercial driveway approach to the new residential structures, (N) sidewalk on-site per plan, +/- 10 LF of sidewalk in the Public

Rights-of-Way extending from sidewalk on private property. Any work in the public rights-of-way requires a Public Works permit.

- l. **Senda Verde (private) Road Improvements.** The Owner shall submit building plans for construction of improvements along the property frontage on the private road known as Senda Verde. As determined by the Public Works Department, the improvements shall include the following to City standards: Construct seven (N) commercial style driveway approaches; construct a minimum of 3 x 3-inch Type B curb drain outlets (*or 4-inch if 8-inch curb*); construct one (N) drop inlet, construct +/-100 LF (N) sidewalk in R/W & additional sidewalk on-site per plan; construct +/- ~~400~~ 460 LF (N) curb & gutter; saw-cut +/- ~~130~~ 253 LF (E) curb & gutter, construct +/- 150 LF\_ curb only, & install +/- 150 LF new infiltration trenches per plan at driveway approaches and parking area; and relocate (E) private street light. Install and connect one (N) irrigation water meter at the end of the (E) water main on Senda Verde in order to flush the mainline, or submit separate C-1 plans to the Public Works Department to loop the system. The new Irrigation Meter or new plans for looping the system requires a separate Public Works Permit/ Work Order. All improvements in the Rights-of-Way requires a Public Works permit.
- m. **Calle Sastre (private) Road Improvements.** The Owner shall submit building plans for construction of improvements along the property frontage on the private road known as Calle Sastre. As determined by the Public Works Department. The improvements shall include the following to City standards: Saw-cut +/- 100 LF (E) curb and gutter, and construct +/- 100 LF of (N) curb only, construct +/- 240 LF (N) curb and gutter, construct +/- 995 LF (N) ribbon gutter infiltration trenches, +/- 360 LF (N) sidewalk, construct three (N) commercial driveway approaches. All improvements in the Right of Way requires a Public Works permit.
- n. **Encroachment Permits.** An Encroachment permit is required for connection of the (N) private storm drain to the City's public storm drain system.
- o. **Lot Line Adjustment Required.** The Owner shall submit an executed *Agreement Related to the Lot Line Adjustment, Quitclaim Deed and Acceptance Thereof* or *Declarations of Lot Line Adjustment* to the Public Works Department. A surveyor licensed in the state of California shall prepare the legal description and required exhibits to attach to the subject Agreement or Declaration for the subject properties, which shall be recorded in the Office of the County Recorder.
- p. **Construction Traffic.** The haul routes for all construction related trucks, three tons or more, entering or exiting the site, shall be approved by the Transportation Engineer. Construction-related truck trips for all trucks three tons or more shall not be scheduled during peak hours (7:00 a.m. to 9:00 a.m. and 4:00 p.m. to 6:00 p.m.) to help reduce truck traffic and noise on adjacent streets and roadways. The route of construction-related traffic shall be established to minimize trips through surrounding residential neighborhoods. (TRF-2a)

- q. **Construction Parking, Storage and Staging.** Construction staging, parking, and vehicle/ equipment/ materials storage shall be provided as follows (T-2b). The intent of these conditions is to minimize traffic, parking, noise and other impacts to the neighborhood:
  - (1) During construction, free parking spaces for construction workers shall be provided on-site or off-site in a location subject to the approval of the Transportation and Parking Manager.
  - (2) On-site or off-site storage shall be provided for construction materials, equipment, and vehicles. Storage of construction materials within the public right-of-way is prohibited.
  - (3) Construction staging shall not take place within the public right-of-way.
- r. **Disabled Accessibility.** Project circulation shall be maintained for disabled accessibility or equivalent facilitation in accordance with American Disabilities Act requirements (T-3a).
- s. **Private Road/Driveway Maintenance Agreement.** The Owner shall submit a copy of the draft Agreement for Maintenance to the proposed private road/driveway(s). Said agreement is subject to the review and approval of the Community Development Director and the City Attorney.
- t. **Stop Sign.** Two new "STOP" signs shall be installed on Torino Drive and shown on the approved plans.
- u. **Red Curbs.** Parking and Transportation Staff shall study increasing the length red curbs on each side of the driveways on Calle de los Amigos, with the goal of improving visibility from cars exiting the site and with particular attention to the area adjacent to the Administration building, and explore no-parking zones on one side of Calle de Los Amigos particularly at the curves.

2. **Community Development Department.**

- a. **Recordation of Agreements.** The Owner shall provide evidence of recordation of the written instrument that includes all of the Recorded Conditions identified in condition B "Recorded Conditions Agreement" to the Community Development Department prior to issuance of any building permits.
- b. **Project Environmental Coordinator Required.** Submit to the Planning Division a contract with a qualified independent consultant to act as the Project Environmental Coordinator (PEC). Both the PEC and the contract are subject to approval by the City's Environmental Analyst. The PEC shall be responsible for assuring full compliance with the provisions of the Mitigation Monitoring and Reporting Program (MMRP) and Conditions of Approval to the City. The contract shall include the following, at a minimum:
  - (1) The frequency and/or schedule of the monitoring of the mitigation measures.
  - (2) A method for monitoring the mitigation measures.

- (3) A list of reporting procedures, including the responsible party, and frequency.
  - (4) A list of other monitors to be hired, if applicable, and their qualifications.
  - (5) Submittal of weekly reports during demolition, excavation, grading and footing installation and biweekly reports on all other construction activity regarding MMRP and condition compliance by the PEC to the Community Development Department/Case Planner.
  - (6) Submittal of a Final Mitigation Monitoring Report.
  - (7) The PEC shall have authority over all other monitors/specialists, the contractor, and all construction personnel for those actions that relate to the items listed in the MMRP and conditions of approval, including the authority to stop work, if necessary, to achieve compliance with mitigation measures.
- c. **Geotechnical Review.** The final project plans reviewed and approved by the City Building Division prior to issuance of any grading or building permits shall show that the project is constructed in accordance with California Building Code requirements and the recommendations contained in the Geotechnical Report prepared by Fugro West, Inc., dated October 2006, updated on February 18, 2008 regarding site preparation, grading, paving, foundation design, retaining walls, and construction plans. (GEO-1.)
- d. **Native and Specimen Tree Replacement and Protection.** The project applicant shall implement the Valle Verde Retirement Community Tree Assessment and Protection Plan (Spiewak, 2008), and the mitigation measures provided by the Initial Study prepared for the Valle Verde project. The following tree replacement/protection measures shall be implemented: (BIO-2a.)
- (1) A minimum oak tree replacement ratio of 10:1 shall be required to mitigate the loss of the 15 coast live oaks. A minimum survivorship ratio of 8:1 after three years post-planting shall be achieved. Acorns collected from on-site oak trees shall be used. One hundred fifty oak saplings, one gallon in size shall be planted in areas between the new structures on the west side of the property (project north) and the oak woodland. Additional trees shall be planted if damage occurs to existing trees during construction related activities. Mitigation trees and required protection/maintenance requirements shall be installed prior to issuance of project permits.
  - (2) The location of the below-grade detention basin on the Rutherford parcel shall be determined in consultation with a qualified arborist, with the goal of minimizing impacts to the health of the existing Oak trees.
  - (3) The following measures shall be noted on the grading plan submitted to the building department prior to issuance of grading permit and implemented prior and during construction-related activities to ensure the protection of trees:

- (a) Tree protection fencing and barriers shall be installed as indicated on the fencing plan.
- (b) Fences shall be chain link or orange plastic, four to six feet high and positioned at the Critical Root Zone (CRZ) as specified in the tree inventory table and illustrated on the site maps of the Tree Assessment and Protection Plan.
- (c) CRZs shall have a radius measured from the center of the trunk to the outside edge of the CRZ, wherever possible. If work is approved within the CRZ, the fence shall be placed at the outside edge of the work zone.
- (d) Fencing shall remain upright and intact throughout the duration of the project.
- (e) Construction related activities shall be prohibited within the Tree Protection Zones (TPZ), including the use of heavy equipment, storage of materials, or accumulation of soil for later use.
- (f) Demolition and excavation within TPZs of all native and non-native trees shall be done by hand where reasonable. Reasonableness shall be determined by the Project Environmental Coordinator, Supervising General Contractor and the Project Arborist.
- (g) Special attention shall be given to construction related activity around sycamore No. 104 and all oak trees to minimize impacts. Three 24-inch boxed sycamores shall be planted to mitigate impacts to sycamore #104.
- (h) Any roots encountered within the CRZs of trees, even if outside the TPZs shall be cleanly cut back to an undisturbed section of the root zone. In areas where roots are cut, the soil profile shall be irrigated to reduce drying of newly exposed soil and subsequent damage to remaining roots in that profile. The Project Arborist shall determine the quantity, area and frequency of irrigation to the disturbed area.
- (i) A permethrin-based pesticide (Astro) shall be applied to the lower six feet of oak tree trunks stressed from root cutting in the early Spring and late Summer (through September), to reduce the risk of attack by fatal oak bark beetles. It may need to be repeated for several years at the discretion of the City Arborist.
- (j) Tree removal should, to the extent feasible, be scheduled between August 16 and January 31 to avoid bird nesting season or survey and construct only if nesting birds are absent (see mitigation measure Bio3a-2).



- (k) All trees not indicated for removal on the site plan shall be preserved, protected, and maintained, in substantial accordance with the Tree Assessment and Protection Plan dated November 12, 2008.
  - (l) All required mitigation trees, and each of the impacted but not significantly impacted trees shall be monitored once a year following the completion of construction activities for a period of five years. Should any of these trees die during the monitoring period, they shall be replaced at the specified tree replacement mitigation ratio.
- e. **Sensitive Species Surveys and Monitoring.** Prior to issuance of any grading or building permits, the applicant shall submit a draft contract with a qualified biologist for the review and approval of the Environmental Analyst. The following monitoring and survey activities shall be implemented: (BIO-3a)
  - (1) A qualified biologist shall supervise the installation of the construction fencing around all work areas and access roads. Fencing shall be maintained through the duration of project construction.
  - (2) Tree removal/relocation/trimming activities shall not occur during nesting season (February 1 – August 15). If these activities must occur during this time, a qualified biologist shall conduct a survey of the trees no more than one week prior to the activity to identify active nests and nest holes. The biologist shall map the location of all active and inactive nests and nest holes in trees. A 300-foot radius no-disturbance buffer shall be established around trees containing active nests and this buffer shall be maintained until the biologist has verified that young birds have fledged the nest.
  - (3) A city approved biologist familiar with the habits of legless lizards and coast horned lizards shall monitor initial vegetation removal efforts (grubbing), grading and other surface-disturbing activities for silvery legless lizards and coast horned lizards. The biologist shall direct the equipment operator to slowly remove vegetation and the top 12 inches of topsoil while the biologist scans the soil for lizards. Any and all reptiles found shall be relocated to appropriate microhabitats in adjacent, undisturbed habitat out of harm's way. The monitoring biologist shall complete a California Natural Diversity Database Field Survey form should any sensitive reptiles be found and shall fax a copy to the City, and the California Department of Fish and Game California Natural Diversity Database per the instructions on the field survey form.

- f. **Sensitive Plan Survey and Restoration Requirements.** Prior to issuance of grading or building permits, a survey plan prepared by a qualified biologist shall be submitted for review and approval by the City's Environmental Analyst. The survey plan shall also describe restoration efforts that will be implemented if it is determined that the proposed project would result in significant impacts to Santa Barbara honeysuckle and/or mesa horkelia. At minimum, the plan shall contain the following elements. (BIO-4a.)
- (1) Prior to the issuance of a grading permit, a botanical survey shall be performed to confirm the presence or absence of Santa Barbara honeysuckle and mesa horkelia on the western side of the project site.
  - (2) The grading limits and the outer limits of the proposed fuel modification zone shall be staked by a licensed surveyor prior to performance of the botanical surveys. The surveys shall be performed by a qualified biologist/botanist and shall be performed within one month of any scheduled ground and/or vegetation disturbance.
  - (3) Should the surveys required by mitigation measure BIO-4a.1 find any sensitive plants within the area where disturbance will occur, a mitigation plan shall be prepared by a qualified biologist/botanist. The mitigation plan shall describe what measures shall be used to avoid impacts to any sensitive plants found in the survey area. Should the removal of any sensitive plant be unavoidable, replacement shall be performed at a minimum 10:1 ratio for each plant that is removed. This sensitive plant replacement mitigation may be implemented in conjunction with the proposed oak woodland and coastal sage scrub habitat restoration/mitigation plan (BIO-2a).
  - (4) At minimum, the habitat restoration/mitigation plan shall describe the plan elements:
    - (a) Restoration site selection criteria.
    - (b) Where restoration/mitigation will occur.
    - (c) The existing conditions in the restoration/mitigation area(s).
    - (d) Site preparation and planting methods.
    - (e) A planting pallet using locally obtained plant materials.
    - (f) A maintenance schedule.
    - (g) Mitigation goals, objectives, and success criteria.
    - (h) A description of the monitoring methods and reporting that will be used to document and measure the progress of the restoration/mitigation effort.

- (5) The sensitive plant mitigation performance standard shall be a minimum 80 percent survival of all mitigation plantings, with no more than 15 percent non-native weeds (excluding non-native annual grasses) to be achieved within 5 years after initial planting.
- (6) Monitoring of the restoration area shall occur for a minimum of five (5) years. Monitoring reports shall be submitted annually and at the completion of the five year period. If the final report indicates that the restoration project has in part or in whole been unsuccessful based on the performance standards specified in the restoration plan, the applicant shall submit within 90 days a revised or supplemental restoration program.

- g. **Unanticipated Archaeological Resources Contractor Notification.** The following information should be printed on the grading plans submitted to the building department prior to issuance of a grading permit (CR-1):

Prior to the start of any vegetation or paving removal, demolition, trenching or grading, contractors and construction personnel shall be alerted to the possibility of uncovering unanticipated subsurface archaeological features or artifacts associated with past human occupation of the parcel. If such archaeological resources are encountered or suspected, work shall be halted immediately, the City Environmental Analyst shall be notified and an archaeologist from the most current City Qualified Archaeologists List shall be retained by the applicant. The latter shall be employed to assess the nature, extent and significance of any discoveries and to develop appropriate management recommendations for archaeological resource treatment, which may include, but are not limited to, redirection of grading and/or excavation activities, consultation and/or monitoring with a Barbareño Chumash representative from the most current City qualified Barbareño Chumash Site Monitors List, etc.

If the discovery consists of possible human remains, the Santa Barbara County Coroner shall be contacted immediately. If the Coroner determines that the remains are Native American, the Coroner shall contact the California Native American Heritage Commission. A Barbareño Chumash representative from the most current City Qualified Barbareño Chumash Site Monitors List shall be retained to monitor all further subsurface disturbance in the area of the find. Work in the area may only proceed after the Environmental Analyst grants authorization.

If the discovery consists of possible prehistoric or Native American artifacts or materials, a Barbareño Chumash representative from the most current City Qualified Barbareño Chumash Site Monitors List shall be retained to monitor all further subsurface disturbance in the area of the find. Work in the area may only proceed after the Environmental Analyst grants authorization

- h. **Contractor and Subcontractor Notification.** The Owner shall notify in writing all contractors and subcontractors of the site rules, restrictions, and Conditions of Approval. Submit a draft copy of the notice to the Planning Division for review and approval.

- i. **Letter of Commitment for Neighborhood Notification Prior to Construction.** The Owner shall submit to the Planning Division a letter of commitment to provide the written notice specified in condition E.3 “Neighborhood Notification Prior to Construction” below. The language of the notice and the mailing list shall be reviewed and approved by the Planning Division prior to being distributed. An affidavit signed by the person who compiled the mailing list shall be submitted to the Planning Division.
- j. **Letter of Commitment for Pre-Construction Conference.** The Owner shall submit to the Planning Division a letter of commitment to hold the Pre-Construction Conference identified in condition E.1 “Pre-Construction Conference” prior to disturbing any part of the project site for any reason.
- k. **Design Review Requirements.** Plans shall show all design, landscape and tree protection elements, as approved by the appropriate design review board and as outlined in Section C “Design Review,” and all elements/specifications shall be implemented on-site.
- l. **Mitigation Monitoring and Reporting Requirement.** Note on the plans that the Owner shall implement the Mitigation Monitoring and Reporting Program (MMRP) for the project's mitigation measures, as outlined in the Environmental Impact Report for the project.
- m. **Emergency Evacuation Plan.** Provide an emergency evacuation plan subject to approval by the Fire Department.
- n. **Visitor Parking.** 49 guest parking spaces shall be provided throughout the site in addition to the resident and employee parking required by the Zoning Ordinance. The size and location shall be based upon the Planning Commission approved site plan.
- o. **Conditions on Plans/Signatures.** The final Resolution shall be provided on a full size drawing sheet as part of the drawing sets. Each condition shall have a sheet and/or note reference to verify condition compliance. If the condition relates to a document submittal, indicate the status of the submittal (e.g., Final Map submitted to Public Works Department for review). A statement shall also be placed on the sheet as follows: The undersigned have read and understand the required conditions, and agree to abide by any and all conditions which are their usual and customary responsibility to perform, and which are within their authority to perform.

Signed:

_____ Property Owner		_____ Date
_____ Contractor	_____ Date	_____ License No.
_____ Architect	_____ Date	_____ License No.
_____ Engineer	_____ Date	_____ License No.

E. **Construction Implementation Requirements.** All of these construction requirements shall be carried out in the field by the Owner and/or Contractor for the duration of the project construction, including demolition and grading.

1. **Pre-Construction Conference.** Not less than 10 days or more than 20 days prior to commencement of construction, a conference to review site conditions, construction schedule, construction conditions, and environmental monitoring requirements, shall be held by the General Contractor. The conference shall include representatives from the Public Works Department Engineering and Transportation Divisions, Community Development Department Building and Planning Divisions, the Property Owner, (Archaeologist, Architect, Arborist, Landscape Architect, Biologist, Geologist, Project Engineer, Project Environmental Coordinator, Mitigation Monitors), Contractor and each Subcontractor.
2. **Construction Contact Sign.** Immediately after Building permit issuance, signage shall be posted at the points of entry to the site that list the contractors and Project Environmental Coordinator's (PEC) name, contractors and PEC's telephone numbers, construction work hours, site rules, and construction-related conditions, to assist Building Inspectors and Police Officers in the enforcement of the conditions of approval. The font size shall be a minimum of 0.5 inches in height. Said sign shall not exceed six feet in height from the ground if it is free-standing or placed on a fence. It shall not exceed 24 square feet if in a multi-family or commercial zone or six square feet if in a single family zone.
3. **Neighborhood Notification Prior to Construction.** Construction Notice. At least 20 days prior to commencement of construction, the contractor shall provide written notice to all property owners and residents within 450 feet of the project area. The notice shall contain a description of the proposed project, a construction schedule including days and hours of construction, the name and phone number of the Project Environmental Coordinator (PEC) who can answer questions, and provide additional information or address problems that may arise during construction. A 24-hour construction hot line shall be provided. Informational signs with the PEC's name and telephone number shall also be posted at the site. (N-1)
4. **Construction Hours.** Construction (including preparation for construction work) shall only be permitted Monday through Friday between the hours of 8:00 a.m. and 5:00 p.m. excluding the following holidays:

New Year's Day	January 1 <sup>st</sup> *
Martin Luther King's Birthday	3rd Monday in January
Presidents' Day	3rd Monday in February
Cesar Chavez Day	March 31 <sup>st</sup> *
Memorial Day	Last Monday in May
Independence Day	July 4 <sup>th</sup> *
Labor Day	1st Monday in September
Thanksgiving Day	4th Thursday in November
Following Thanksgiving Day	Friday following Thanksgiving Day
Christmas Day	December 25 <sup>th</sup> *

\*When a holiday falls on a Saturday or Sunday, the preceding Friday or following Monday, respectively, shall be observed as a legal holiday.

Occasional night work may be approved for the hours between 5 p.m. and 8 a.m. by the Chief of Building and Zoning per Section 9.13.015 of the Municipal Code) between the hours of 5 p.m. and 8 a.m. weekdays In the event of such night work approval, the applicant shall provide written notice to all property owners and residents within 450 feet of the project property boundary and the City Planning and Building Divisions at least 48 hours prior to commencement of any. Night work shall not be permitted on weekends and holidays. (N-2)

5. **Construction Equipment Sound Control.** All construction equipment, including trucks, shall be professionally maintained and fitted with standard manufacturers' muffler and silencing devices. (N-3)
6. **Sound Barriers.** As determined necessary by the Project Environmental Coordinator, the project shall employ sound control devices and techniques such as noise shields and blankets during the construction period to reduce the level of noise to surrounding residents. (N-4)
7. **Construction Storage/Staging.** Construction vehicle/ equipment/ materials storage and staging shall be done on-site. No parking or storage shall be permitted within the public right-of-way, unless specifically permitted by the Transportation Manager with a Public Works permit.
8. **Construction Parking.** During construction, free parking spaces for construction workers shall be provided on-site or off-site in a location subject to the approval of the Transportation Manager.
9. **Mitigation Monitoring Compliance Reports.** The PEC shall submit weekly reports during demolition, excavation, grading and footing installation and biweekly reports on all other construction activity regarding MMRP compliance to the Community Development Department Planning Division.
10. **Unanticipated Archaeological Resources Contractor Notification.** Standard discovery measures shall be implemented per the City master Environmental Assessment throughout grading and construction: Prior to the start of any vegetation or paving removal, demolition, trenching or grading, contractors and construction personnel shall be alerted to the possibility of uncovering unanticipated subsurface archaeological

features or artifacts. If such archaeological resources are encountered or suspected, work shall be halted immediately, the City Environmental Analyst shall be notified and the Owner shall retain an archaeologist from the most current City Qualified Archaeologists List. The latter shall be employed to assess the nature, extent and significance of any discoveries and to develop appropriate management recommendations for archaeological resource treatment, which may include, but are not limited to, redirection of grading and/or excavation activities, consultation and/or monitoring with a Barbareño Chumash representative from the most current City qualified Barbareño Chumash Site Monitors List, etc.

If the discovery consists of possible human remains, the Santa Barbara County Coroner shall be contacted immediately. If the Coroner determines that the remains are Native American, the Coroner shall contact the California Native American Heritage Commission. A Barbareño Chumash representative from the most current City Qualified Barbareño Chumash Site Monitors List shall be retained to monitor all further subsurface disturbance in the area of the find. Work in the area may only proceed after the Environmental Analyst grants authorization.

If the discovery consists of possible prehistoric or Native American artifacts or materials, a Barbareño Chumash representative from the most current City Qualified Barbareño Chumash Site Monitors List shall be retained to monitor all further subsurface disturbance in the area of the find. Work in the area may only proceed after the Environmental Analyst grants authorization.

A final report on the results of the archaeological monitoring shall be submitted by the City-approved archaeologist to the Environmental Analyst within 180 days of completion of the monitoring and prior to any certificate of occupancy for the project.

11. **Construction Dust Control** – Throughout grading and other ground disturbance, the following conditions shall be followed:

- a. **Minimize Disturbed Area/Speed.** Minimize amount of disturbed area and reduce on site vehicle speeds to 15 miles per hour or less. (AQ-1)
- b. **Watering.** During site grading and transportation of fill materials, regular water sprinkling shall occur using reclaimed water whenever the Public Works Director determines that it is reasonably available. During clearing, grading, earth moving or excavation, sufficient quantities of water, through use of either water trucks or sprinkler systems, shall be applied to achieve minimum soil moisture of 12% to prevent dust from leaving the site. Each day, after construction activities cease, the entire area of disturbed soil shall be sufficiently moistened to create a crust.

Throughout construction, water trucks or sprinkler systems shall also be used to keep all areas of vehicle movement damp enough to prevent dust raised from leaving the site. At a minimum, this will include wetting down such areas every three hours. Increased watering frequency will be required whenever the wind speed exceeds 15 mph. (AQ-2)

- c. **Tarping.** Trucks transporting fill material to and from the site shall be covered from the point of origin and maintain a freeboard height of 12 inches. (AQ-3)

- d. **Gravel Pads.** Gravel pads, 3 inches deep, 25 feet long, 12 feet wide per lane and edged by rock berm or row of stakes or a pipe-grid track out control device shall be installed to reduce mud/dirt track out from unpaved truck exit routes. (AQ-4)
  - e. **Construction Dust Control – Disturbed Area Treatment.** After clearing, grading, earth moving or excavation is completed, the entire area of disturbed soil shall be treated to prevent wind erosion. This may be accomplished by:
    - (1) Seeding and watering until grass cover is grown;
    - (2) Spreading soil binders;
    - (3) Sufficiently wetting the area down to form a crust on the surface with repeated soakings as necessary to maintain the crust and prevent dust pickup by the wind;
    - (4) Other methods approved in advance by the Air Pollution Control District. (AQ-5)
  - f. **Construction Dust Control – Paving.** All roadways, driveways, sidewalks, etc., shall be paved as soon as possible. Additionally, building pads shall be laid as soon as possible after grading unless seeding or soil binders are used. (AQ-6)
  - g. **Stockpiling.** If importation, exportation and stockpiling of fill material are involved, soil stockpiled for more than two days shall be covered, kept moist by applying water at a rate of 1.4 gallons per hour per square yard, or treated with soil binders to prevent dust generation. Apply cover when wind events are declared. (AQ-7)
  - h. **Project Environmental Coordinator (PEC).** The contractor or builder shall designate a person or persons to monitor the dust control program and to order increased watering, as necessary, to prevent transport of dust offsite. Their duties shall include holiday and weekend periods when construction work may not be in progress. The name and telephone number of such persons shall be provided to the Air Pollution Control District prior to land use clearance for map recordation and land use clearance for finish grading for the structure. (AQ-8)
12. **Exhaust Emissions** – The following vehicle emissions controls/maintenance shall be followed through out construction:
- a. **Engines.** Heavy-duty diesel-powered construction equipment manufactured after 1996 (with federally mandated "clean" diesel engines) shall be used. (AQ-9)
  - b. **Engine Size.** The engine size of construction equipment shall be the minimum practical size. (AQ-10)
  - c. **Equipment Numbers.** The number of construction equipment operating simultaneously shall be minimized through efficient management practices to ensure that the smallest practical number is operating at any one time. (AQ-11)
  - d. **Equipment Maintenance.** Construction equipment shall be maintained to meet the manufacturer's specifications. (AQ-12)



- e. **Engine timing.** Construction equipment operating onsite shall be equipped with two to four degree engine timing retard or pre-combustion chamber engines. (AQ-13)
  - f. **Catalytic Converters.** Catalytic converters shall be installed on gasoline-powered equipment, if feasible. (AQ-14)
  - g. **Diesel Catalytic Converters.** Diesel catalytic converters, diesel oxidation catalysts and diesel particulate filters as certified and/or verified by EPA or California shall be installed, if available. (AQ-15)
  - h. **Diesel Replacements.** Diesel powered equipment shall be replaced by electric equipment whenever feasible. (AQ-16)
  - i. **Idling Limitation.** Idling of heavy-duty diesel trucks during loading and unloading shall be limited to five minutes; auxiliary power units shall be used whenever possible. (AQ-17)
  - j. **Worker Trips.** Construction worker trips shall be minimized by requiring carpooling and by providing for lunch onsite. (AQ-18)
  - k. **Biodiesel.** Biodiesel shall be used to the maximum extent feasible. (AQ-19)
  - l. **Energy Use.** Minimize the use of energy by designing and constructing structures using sustainable development principles including green building designs and materials. (AQ-20)
  - m. **Carpool Parking.** Provide preferential parking for carpools and vanpools. (AQ-21)
13. **Demolition -** The following conditions shall be carried out through the demolition phase:
- a. **Demolition and Debris Removal.** Apply water every 4 hours to the area within 100 feet of a structure being demolished, to reduce vehicle trackout. Apply water to disturbed soils after demolition is completed or at the end of each day of cleanup.
  - b. **Post Demolition.** Apply dust suppressants (e.g., polymer emulsion) to disturbed areas upon completion of demolition. (AQ-23)
  - c. **Demolition Activities.** Prohibit demolition activities when wind speeds exceed 25 mph. (AQ-24)
  - d. **Demolition/Construction Materials Recycling.** Recycling and/or reuse of demolition/construction materials shall be carried out to the extent feasible, and containers shall be provided on site for that purpose, in order to minimize construction-generated waste conveyed to the landfill. Indicate on the plans the location of a container of sufficient size to handle the materials, subject to review and approval by the City Solid Waste Specialist, for collection of demolition/construction materials. A minimum of 90% of demolition and construction materials shall be recycled or reused. Evidence shall be submitted at each inspection to show that recycling and/or reuse goals are being met. (PS-1)

F. **Prior to Certificate of Occupancy.** Prior to issuance of the Certificate of Occupancy, the Owner of the Real Property shall complete the following:

1. **Repair Damaged Public Improvements.** Repair any public improvements (curbs, gutters, sidewalks, roadways, etc.) or property damaged by construction subject to the review and approval of the Public Works Department per SBMC §22.60.090. Where tree roots are the cause of the damage, the roots shall be pruned under the direction of a qualified arborist.
2. **Complete Public Improvements.** Public improvements, as shown in the public improvement plans or building plans, including utility service undergrounding and installation of street trees, if any, shall be completed.
3. **Red Curb Painting.** Prior to the occupancy of any proposed residential unit, curbs adjacent to the Valle Verde driveways on Calle de los Amigos and Torino Drive should be painted red to prohibit parking within five feet of the driveways. (TRF-1a.)
4. **Mitigation Monitoring Report.** Submit a final construction report for mitigation monitoring.
5. **Biological Monitoring Contract.** Submit a contract with a qualified biologist acceptable to the City for on-going monitoring consistent with condition D.2.g.6, which states:

Monitoring of the restoration area shall occur for a minimum of five (5) years. Monitoring reports shall be submitted annually and at the completion of the five year period. If the final report indicates that the restoration project has in part or in whole been unsuccessful based on the performance standards specified in the restoration plan, the applicant shall submit within 90 days a revised or supplemental restoration program

G. **General Conditions.**

1. **Prior Conditions.** These conditions shall supersede the conditions identified in all previously approved Planning Commission Resolutions and Substantial Conformance Determinations.
2. **Compliance with Requirements.** All requirements of the city of Santa Barbara and any other applicable requirements of any law or agency of the State and/or any government entity or District shall be met. This includes, but is not limited to, the Endangered Species Act of 1973 [ESA] and any amendments thereto (16 U.S.C. § 1531 et seq.), the 1979 Air Quality Attainment Plan, and the California Code of Regulations.
3. **Approval Limitations.**
  - a. The conditions of this approval supersede all conflicting notations, specifications, dimensions, and the like which may be shown on submitted plans.
  - b. All buildings, roadways, parking areas and other features shall be located substantially as shown on the plans approved by the Planning Commission.
  - c. Any deviations from the project description, approved plans or conditions must be reviewed and approved by the City, in accordance with the Planning Commission Guidelines. Deviations may require changes to the permit and/or further

environmental review. Deviations without the above-described approval will constitute a violation of permit approval.

4. **California Department of Fish and Game Fees Required.** Pursuant to Section 21089(b) of the California Public Resources Code and Section 711.4 et. seq. of the California Fish and Game Code, the approval of this permit/project shall not be considered final unless the specified Department of Fish and Game fees are paid and filed with the California Department of Fish and Game within five days of the project approval. The fees required are \$2,839.25 for projects with Environmental Impact Reports. Without the appropriate fee, the Notice of Determination (which the City is required to file within five days of project approval) cannot be filed and the project approval is not operative, vested, or final. The fee shall be delivered to the Planning Division immediately upon project approval in the form of a check payable to the California Department of Fish and Game. Please note that a filing fee of \$50.00 is also required to be submitted with the Fish and game fee in the form of a separate check payable to the County of Santa Barbara.
5. **Land Development Team Recovery Fee Required.** The land development team recovery fee (30% of all planning fees, as calculated by staff) shall be paid at time of building permit application.
6. **Site Maintenance.** The existing site/structures shall be maintained and secured. Any landscaping shall be watered and maintained until demolition occurs.
7. **Litigation Indemnification Agreement.** In the event the Planning Commission approval of the Project is appealed to the City Council, Applicant/Owner hereby agrees to defend the City, its officers, employees, agents, consultants and independent contractors ("City's Agents") from any third party legal challenge to the City Council's denial of the appeal and approval of the Project, including, but not limited to, challenges filed pursuant to the California Environmental Quality Act (collectively "Claims"). Applicant/Owner further agrees to indemnify and hold harmless the City and the City's Agents from any award of attorney fees or court costs made in connection with any Claim.

Applicant/Owner shall execute a written agreement, in a form approved by the City Attorney, evidencing the foregoing commitments of defense and indemnification within thirty (30) days of being notified of a lawsuit regarding the Project. These commitments of defense and indemnification are material conditions of the approval of the Project. If Applicant/Owner fails to execute the required defense and indemnification agreement within the time allotted, the Project approval shall become null and void absent subsequent acceptance of the agreement by the City, which acceptance shall be within the City's sole and absolute discretion. Nothing contained in this condition shall prevent the City or the City's Agents from independently defending any Claim. If the City or the City's Agents decide to independently defend a Claim, the City and the City's Agents shall bear their own attorney fees, expenses, and costs of that independent defense.

**NOTICE OF APPROVAL TIME LIMITS:**

The Planning Commission action approving the Conditional Use Permit and Modification shall terminate two (2) years from the date of the approval, per Santa Barbara Municipal Code §28.87.360, unless:

1. An extension is granted by the Community Development Director prior to the expiration of the approval; or
2. A Building permit for the use authorized by the approval is issued and the construction authorized by the permit is being diligently pursued to completion and issuance of a Certificate of Occupancy.

**NOTICE OF LOT LINE ADJUSTMENT TIME LIMITS:**

The Planning Commission's action approving the Lot Line Adjustment shall expire 24 months from the date of approval. The applicant may request an extension of this time period in accordance with Santa Barbara Municipal Code §27.40.100.

**NOTICE OF TIME LIMITS FOR PROJECTS WITH MULTIPLE APPROVALS (S.B.M.C. § 28.87.370):**

If multiple discretionary applications are approved for the same project, the expiration date of all discretionary approvals shall correspond with the longest expiration date specified by any of the land use discretionary applications, unless such extension would conflict with state or federal law. The expiration date of all approvals shall be measured from date of the final action of the City on the longest discretionary land use approval related to the application, unless otherwise specified by state or federal law.

This motion was passed and adopted on the 14th day of April, 2011 by the Planning Commission of the City of Santa Barbara, by the following vote:

AYES: 5 NOES: 0 ABSTAIN: 0 ABSENT: 2 (Jacobs, Larson)

I hereby certify that this Resolution correctly reflects the action taken by the city of Santa Barbara Planning Commission at its meeting of the above date.

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Julie Rodriguez, Planning Commission Secretary

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Date

**PLEASE BE ADVISED:**

**THIS ACTION OF THE PLANNING COMMISSION CAN BE APPEALED TO THE CITY COUNCIL WITHIN TEN (10) CALENDAR DAYS AFTER THE DATE THE ACTION WAS TAKEN BY THE PLANNING COMMISSION.**